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# CANADA A NATION

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## CANADIAN CONSTITUTIONAL DEVELOPMENTS

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ADDRESS DELIVERED BY THE  
HONOURABLE N. W. ROWELL, K.C.  
AT THE  
AMERICAN BAR ASSOCIATION MEETING  
MINNEAPOLIS, 1923



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# CANADA A NATION

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## CANADIAN CONSTITUTIONAL DEVELOPMENTS

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**M**Y first duty, and it is indeed a pleasing one, is to convey to you the cordial and fraternal greetings of the members of the Canadian Bar Association. For many years we have followed the work of your Association with the deepest interest and profit. We recognize that you do not gather together to promote personal gain, or to serve any selfish interest, but for the great national purpose of supporting and maintaining ordered liberty and the honest and impartial administration of justice under the rule of law. This rule of law is one of the distinguishing characteristics of your constitution and of ours, and its maintenance is the surest guarantee of individual and of national liberty.

My second duty, and a not less pleasing one, is to thank you, on behalf of the Canadian Bar Association, for sending to our annual meeting at Vancouver last year so distinguished a representative as your honoured President, Mr. Davis, who came to us accompanied by a large number of your members. He delighted and inspired us by his address, and his presence and the presence of the other members of your Bar was a real contribution to good relations between your country and ours. We expect

to welcome to our Association in Montreal next week another distinguished member of your Bar, a great jurist and a great statesman, your honoured Secretary of State, Mr. Hughes. We are not only conscious of his eminence at your Bar, but also of his outstanding services as a statesman; his achievements at the Washington Conference place him among the great statesmen of our time.

Canada has two Mother countries, Great Britain and France, and we also expect to welcome to our Association next week the distinguished representatives of both, who are your honoured guests at this meeting.

I am assured that this is the most successful meeting in your history. On behalf of the Canadian Bar I congratulate you on your success. With the aid of our distinguished guests we expect to make our meeting next week the most successful in our history, and we shall be glad to welcome to our meetings any members of your Bar who can make it possible to visit us.

We are deeply interested not only in your bar but also in your bench. We claim a part ownership in your distinguished Chief Justice. He spends part of his time every year in Canada. He has had a home in Canada for over thirty years. When he grows tired of the arguments of lawyers, the discussion of judges and the controversies of politicians in Washington, and desires rest and recreation, he journeys northward across the St. Lawrence, and amid the calm and peace of the Province of Quebec, surrounded by the habitants, those models of industry, of frugality

and of domestic virtue, he gathers strength and inspiration to discharge his great duties as Chief Justice.

In the period during which you relieved Mr. Taft from public responsibility he visited Canada and made some very important public addresses. I heard him deliver a great speech on the importance and value of the establishment of a permanent court of international justice for the settlement of juridical disputes between nations. If I ever had any doubt of the desirability or practicability of the establishment of such a court, that doubt would have been entirely removed by the peculiarly persuasive address of Mr. Taft on that occasion.

And may I say, Mr. President, for the encouragement of those who may undertake similar missionary journeys in your own country, that the seed then sown fell on good ground. Canada, with the full authority of her Parliament, joined the Permanent Court of International Justice and to-day the Parliament, the bar and the people of Canada stand wholeheartedly behind the Permanent Court of International Justice, of which Mr. John Bassett Moore, one of your most distinguished jurists, is an honoured member.

Your President, Mr. Davis, in addressing our Association last year, spoke on "Our Common Heritage and Our Common Duties." It may not be without interest to members of your Association if one attempted to add to his valuable contribution to a good understanding between our two peoples some observations on recent constitutional developments in Canada which have an important bearing on the relations between our two countries, and to

illustrate these developments and their effect by reference to certain aspects of your constitutional development and of ours.

In discussing Canada's position and the relations between our two countries, with members of your bar, I have found not a little misunderstanding of our present constitutional position in the British Empire, or the "Britannic Commonwealth" as some prefer to call it, and of our relation to international affairs. One explanation of this misunderstanding lies, no doubt, in the difference in the character and form of our respective constitutions, and in the habit to which we are all subject of judging by our own standards. Two of these vital differences are: (1) The character of the executive power and its relation to the legislative, to which I shall make further reference later, and (2) The form in which your constitution and ours is expressed. Yours is written and rigid; ours is partly written, partly unwritten, and consequently flexible. And whether written or unwritten, legal right is frequently regulated and controlled by constitutional convention and practice. If you wish to know what your constitution is you look to the law and the letter of the law. With us you must not only look to the law but you must look beyond it and study the practice which has developed in order to arrive at the truth.

May I illustrate what I mean by constitutional convention from the operation of your own constitution. The framers of your constitution undoubtedly intended to make provision for the indirect rather than the direct method of electing your



President. They made provision not for a popular vote but for the choice of electors who should elect the President. Under your constitution the electors so chosen are under no obligation to choose the candidate nominated by either party and for whom the people have in fact voted. They have the legal right to choose any person for President who possesses the necessary qualifications for that high office. But by long and well settled constitutional practice, having the same practical effect as an amendment to your Constitution, these electors must choose the candidate whose choice is indicated by the popular vote as expressed in the choice of members of the Electoral College. In other words, constitutional practice has limited the legal right of electors so chosen, and they are now bound to give effect to the popular choice. That they should do otherwise is at present unthinkable, but if they did so who could foretell the disastrous consequences?

May I give a not less striking illustration under our Canadian constitution of a legal right being controlled by constitutional practice. One of the provisions of our Canadian constitution gives to the British Government a right of veto on Canadian legislation. This right is as dead as the King's right to veto an act of the British Parliament, which has not been exercised since the reign of Queen Anne. And it is worthy of note that in the new Constitution of the Irish Free State, which in some vital respects incorporated the present Canadian constitutional practice, no right of veto appears. In other words, while in Great Britain the Sovereign has the legal

right to refuse his assent to bills passed by both Houses of Parliament, just as under the Canadian constitution the British Government has the legal right to veto Canadian legislation, by constitutional practice which has now developed into constitutional conventions both rights are dead.

Such constitutional conventions, limiting the exercise of legal rights, are characteristic of the Canadian and British constitutions, and particularly characteristic of what one may describe as the Constitution of the Britannic Commonwealth, as distinct from the British constitution on the one hand and the Canadian constitution on the other.

A recognition of these differences, both in the substance and in the form of your constitution and ours, will help us to understand and appreciate our recent constitutional developments.

No student of your colonial period and of ours can fail to be struck with the marked similarity in the questions which came up for consideration between the colonies and the mother country, nor can he fail to be equally impressed with the difference in the attitude in which they were finally dealt with or in the solutions found. Why this difference? It is no answer to suggest that in one case the attitude was unreasonable and perverse and in the other sane and conciliatory. Even if this were so it would not explain the situation. The difference is due to much more fundamental causes. During the period which intervened between the discussion of these issues in your case and in ours, a great and far-reaching change had taken place in British constitutional practice, a

change in which the executive government in Great Britain passed from the control of the Sovereign to the control of the House of Commons. Parliamentary Government had been firmly established.

A further and not less notable change had taken place in the conception of statesmen and jurists in Great Britain, of the relations which should subsist between the mother country and the colonies settled by European stock. At the time you were engaged in controversy with the mother country, the prevailing conception of colonial relationship was that the only alternative to complete dependence was complete independence. Seventy years later this conception had been fundamentally changed and far-seeing statesmen and political writers accepted the view that there might be a division of governmental authority over the colonies, as between domestic and foreign affairs, and that the colonies might be granted full self-government in domestic affairs while the parent state retained full authority over foreign affairs. Seventy years more have brought a further and not less fundamental change, and it is now recognized that the colonial status may be wholly abandoned and the colonies become equals of the mother country and still remain within the British Commonwealth of Nations. This change in British constitutional practice, and this change in the conception of colonial relationship, have made possible the solution at which we arrived. Without them your solution was well-nigh inevitable. A brief reference to your history and ours will make this clear.

After the difficulties arose between the Thirteen Colonies and the mother country, there were at least four great steps in your constitutional development from purely colonial and dependent status to your present federal constitution.

1. The Bill of Rights of the Continental Congress of 1774. This was a demand on the part of the Thirteen Colonies for complete self-government in all domestic affairs. The colonists still desired to remain within the British Empire and to retain their rights as British citizens, but were determined that in all matters of domestic concern, including the right to levy taxes, the colonial governments should be supreme. This Bill of Rights was not entertained by the British Government. It is only right to recall as already pointed out that at this time the prevailing view of colonial relationship of the statesmen and political writers of Great Britain was that the only alternative to complete dependence was complete independence and separation. On this issue you fought your Revolutionary War, and it is therefore not surprising that some lingering traces of this conception may still be found in the minds of some of your people. They therefore find it difficult to understand Canada's present position.

2. The Declaration of Independence of 1776. When the Imperial Government refused to entertain your Bill of Rights and the war continued, the representatives of the Thirteen Colonies reached the conclusion that they could only obtain the control of their own affairs by separation from the mother country. As the mother country was unwilling to

recognize your Declaration of Independence, the war continued until independence was acknowledged.

3. The Articles of Confederation of 1777. By these articles a confederation or alliance was established between the thirteen States for the purpose of common defence, and the conduct of certain specified affairs common to all the States. Under this confederation or alliance the States retained their sovereign rights, and there was no strong central government with authority to deal with matters of common concern to all the States or to settle differences arising between the States. To prevent disunion and disintegration you found a strong central government must be established.

4. The adoption of your present federal Constitution in 1787. Under this Constitution you divided the legislative and executive powers between the federal and the State governments. And you gave the federal government plenary and exclusive jurisdiction over all foreign affairs and over domestic matters of national concern. By this new and great experiment you solved the problem of reconciling national unity with local autonomy.

In Canada there have been at least three great steps in our constitutional development from the position of dependent colonies of Great Britain to full equality of status in the Britannic Commonwealth which Canada now enjoys.

1. The grant of responsible governments in 1847. This secured for the Canadian colonies all that your Bill of Rights of 1774 demanded, viz., full self-government in all matters of domestic concern.

2. The adoption in 1867 of the present federal constitution of Canada.

We, like you, have established a strong central government dealing with national affairs and provincial or state governments dealing with local affairs. Under this Constitution there is a division of legislative and executive power between the federal and provincial or state governments and the judicial power is separate from and independent of the legislative and executive. While under this written constitution, as I have already pointed out, there was reserved to the British Government a right of veto on Canadian legislation, by constitutional custom and convention since established, that right of veto is no longer exercised, and it may be fairly stated that under our federal constitution the Government of Canada has the same plenary and exclusive power to deal with all domestic affairs that your Federal Government possesses.

Lord Birkenhead, in his notable address on Wednesday evening last, pointed out that one great distinction between the British and American constitutions was the difference in the relation of the judicial to the legislative power; that under your constitution the legislative might be controlled by the judicial, while in Great Britain the legislative power is uncontrolled and is supreme over the judicial. Under our Constitution the legislative power is not as supreme as in Great Britain nor as subject to the judicial power as is the United States. But all must recognize that you cannot have a federal form of government without placing authority in some independent body capable



of defining the spheres of activity of the central and the provincial or state governments under the federal constitution, and what body could be as good and as safe as the judicial power?

3. The change in national status from that of a self-governing, though subordinate state in the British Empire, to full equality status with Great Britain, as common members of the Britannic Commonwealth. This change is not embodied in any legislative act, nor is it embodied in any written Constitution or document, but none the less the status once accorded can never, and will never, be withdrawn.

As a result of these constitutional developments the people of Canada are now entitled to exercise authority over their own domestic and foreign affairs; they are able to satisfy all their national aspirations and still remain within the British Empire and enjoy the rights and privileges of British citizens. One hundred and fifty years ago you found it necessary to separate yourselves from the British Empire in order to enjoy the rights and privileges of complete self-government.

You may ask, and very properly ask, by what constitutional process has such a development been possible, and Canada still remain a member of the British Empire? In answering this question we must keep before us the difference between your constitution and ours, particularly the difference in the character and powers of the executive authority and its relation to the legislative. With you the President, as the head of the State and the possessor of the executive power, is a real governor, and under your

constitution he exercises great and far-reaching powers in the government of the country. Under both the British and Canadian constitutions the executive authority is vested in His Majesty. His Majesty, as head of the state and the possessor of the executive power, exercises no independent executive authority. He acts only on the advice of his constitutional advisors, called the Cabinet, and it is the Prime Minister and leader of the Government who is the real head of the executive government of the country. Under this system it is possible for His Majesty to be the possessor of the executive power in all the self-governing nations of the Empire, and in no way to impair their powers of self-government. Your executive power is in no way dependent upon or controlled by the legislative. Your executive may be, and frequently is, out of sympathy with the legislative power; with us the executive is wholly dependent upon and is controlled by the legislative power. The Prime Minister and his cabinet are responsible to Parliament, and when they cease to command the confidence of Parliament they must make way for new advisors to His Majesty who do possess the confidence of Parliament. Under this constitutional practice the executive government derives its authority from and must possess the confidence of the House of Commons.

At the time of the American Revolution this theory of cabinet responsibility had not been fully established. There was no generally recognized obligation upon the King to choose only advisors who could command the confidence of Parliament, and he still was a very



potent factor in the actual work of government, not only in Great Britain but in all the colonies.

King George III, and his immediate advisors, were largely responsible for the policy pursued toward the Thirteen Colonies, and the complete failure of that policy greatly accelerated the movement for responsible government. During the early part of the nineteenth century, the theory of cabinet responsibility to Parliament was fully developed and firmly established, and executive authority finally passed from the control of the Crown to the control of Parliament.

By this change the Imperial Parliament obtained not only full control over the executive government of Great Britain but also full control over the executive government of the Colonies. It was this fundamental change which made possible the present development and the continued unity of the British Empire. It thereafter became possible to extend gradually to all the colonies of the Empire possessing representative assemblies the rights of self-government by the simple process of instructing the Governor who represented the Crown to act thereafter in all matters covered by his instructions upon the advice of advisors chosen from and possessing the confidence of the majority in the legislative assembly of the colony in question, instead of upon the advice and direction of the British Cabinet. When the Canadian colonies demanded full self-government in domestic affairs, their demand was that the representative of the Crown in Canada should act only upon the advice of a Cabinet or executive which commanded the

confidence of the colonial Parliament just as the Crown in Great Britain acted on the advice of advisors who commanded the confidence of the Imperial Parliament. The grant of responsible self-government to the Canadian colonies in 1847 did not involve any new legislative act or any formal change in our constitution; it only involved a change in policy on the part of the British Government, and the Governor-General, as the representative of His Majesty, ceased to act upon instructions from London or upon his own views of public policy, and thereafter in all matters of domestic concern affecting Canada he acted only upon the advice of advisors who commanded the confidence of the majority in the Canadian Parliament. The form of the change was simple but the effect was profound. It meant that for the future the Government of Canada would be by Canadians chosen for the purpose by the people of Canada.

At the time the Canadian colonies first made this demand, the statesmen of Great Britain of both political parties contended that such a demand was inconsistent with the colonial relation and that to grant it meant the severance of the tie that bound the colonies to the mother country. While the principle of responsible government was fully accepted in the government of the United Kingdom, the political leaders of the day did not think it could be applied to the government of the colonies, without disrupting the Empire. They were mistaken and later wiser counsels prevailed, and in 1847 full responsible self-government in domestic affairs was granted to the

colonies. Experience has shown that the larger the liberty the greater has been the loyalty to the Crown and the spirit of unity within the Empire. I repeat, it was the development of the principle of cabinet responsibility and its extension to the colonies which made possible the continued unity of the British Empire.

Canadian Confederation—the second great step in our constitutional development—was brought about by conditions not dissimilar from those which resulted in the adoption of your present Federal Constitution, namely, the necessity of having some central authority exercising jurisdiction over the whole of Canada and clothed with the necessary legislative and executive power to deal with matters of common concern to all the colonies. Though the new Federal constitution was embodied in an Act of the British Parliament, its terms were settled just as the terms of your Constitution were settled—by a conference of the representatives of the different colonies and approved by the parliaments of these colonies.

The third great advance in our constitutional status whereby the Dominions attained equality of status with the mother country is the result not of a specific legislative Act but of a gradual development extending over more than fifty years. The past fifty years has witnessed a steady transference of authority from the British to the Canadian Government by the same simple process by which the Colonies obtained self-government in domestic affairs. In one important matter after another affecting Canada's external relations, Canada has requested and the British

Government has conceded that His Majesty should cease to act upon the advice of his British advisors and should act upon the advice of his Canadian advisors. And this process has continued until now the whole executive authority in and over Canada has passed from the British Government to the Government of Canada. And what is true of Canada is equally true of the other Dominions.

This change in status is strikingly illustrated in the treaty between Great Britain and Ireland, and in the Constitution which the Irish Free State has now established and which has been approved by Act of the British Parliament.

In the Articles of Agreement for a treaty between Great Britain and Ireland which bears the signature of your distinguished guest, Lord Birkenhead, and in the framing of which he played such a conspicuous part, the first and second articles provide:

1. "Ireland shall have the same constitutional status in the Community of Nations known as the British Empire as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa, with a Parliament having powers to make laws for the peace, order and good government of Ireland and an Executive responsible to that Parliament, and shall be styled and known as the Irish Free State.

2. "Subject to the provisions hereinafter set out, the position of the Irish Free State in relation to the Imperial Parliament and Government and otherwise shall be that of the Dominion of Canada, and the law, practice, and constitutional usage governing the relationship of the Crown or the representative of the Crown and of the Imperial Parliament to the Dominion of Canada shall govern their relationship to the Irish Free State."

The first articles of the Constitution of the Irish Free State declares:

“The Irish Free State is a co-equal member of the community of Nations forming the British Commonwealth of Nations.”

When Mr. Bonar Law, the then Prime Minister of Great Britain, introduced the bill to ratify the Constitution of the Irish Free State, he stated that the Constitution had been submitted to the law officers of the Crown and to the Lord Chief Justice of England for their advice as to whether it was in accordance with the provisions of this Treaty. They advised that it was, and Parliament thereupon passed the Bill approving the Constitution of the Irish Free State. The statutory approval by the British Parliament of this Constitution is a statutory recognition that the status of the Dominions is that of co-equal members of the Community of Nations forming the British Commonwealth of Nations.

This Commonwealth now consists of a group of self-governing nations of equal status though not of equal power, and India in which self-government is in process of development, together with many Colonies possessing a greater or less degree of self-government according to their capacity to exercise it, and insofar as not self-governing or to the extent to which they are not self-governing the British Parliament makes provision for their government. The unity in vital matters essential to the strength, the security and the peace of the whole depends not upon a central government exercising jurisdiction over the whole, like your National Government at Washington, but

upon a common spirit and common ideals. This unity is symbolized and expressed through a common sovereign, a common citizenship, and a common judicial tribunal of final resort for the Dominions, India and the Crown Colonies—the Judicial Committee of the Privy Council. Co-operation is secured through the Imperial Conference composed of representatives of the governments of the self-governing members of the Commonwealth and India, with consultative but without legislative or executive powers, and by communications between the governments concerned.

The absence of a central government, exercising jurisdiction over the whole Commonwealth, is the most fundamental and far-reaching difference between the constitutions of the Britannic and the American Commonwealths. It not only vitally affects the settlement of all problems within the Commonwealth, but it affects the relation of the Commonwealth and its members to all other nations.

May I illustrate the difference in these constitutions by the action taken under each during and since the Great War. When the United States entered the war, your Federal Government, and your Federal Government alone, had the right to raise armies, levy taxation, and organize the man power and resources of the entire nation for the prosecution of the war. When it came to negotiating a treaty of peace, it was your President who, subject to the approval of the Senate, had the sole right to negotiate a treaty for the United States. In the Britannic Commonwealth it was entirely different;—there was no government or parlia-



ment which had jurisdiction throughout the Empire, to raise forces, levy taxation, or wage war on behalf of the whole Empire. It required the action of many Governments and Parliaments. The British Parliament had no more constitutional right to raise troops or levy taxes in Canada than the Canadian Parliament had in Great Britain or your Congress had in either.

The character and extent of Canada's participation in the war were determined not by any action of the British Government but solely by the action of the Government and Parliament of Canada. It was the Canadian Parliament that passed the necessary war measures, that levied the taxation, that conscripted the men and sent them overseas to fight. It was the Canadian Government which controlled the administration of the Canadian forces in England and in France; in short, Canada joined with Great Britain in waging war against the enemy powers by the free action of her own Government and Parliament. But such was the unity of sentiment throughout the Empire on the grave issues raised by the war that the Dominion Governments and Parliaments acted with a promptness and unanimity equal to that of the Imperial Government itself.

While the equality of status of the Dominions with the mother country came to be fully recognized during the war within, what I might describe as, the Britannic family, it had not, up to the time of the Peace Conference, been fully recognized by other nations. The question of the status of the Dominions and their right to direct participation in the Peace Conference, while still members of the British Empire,

was therefore considered by the Conference and the right of the Dominions to participate in the deliberations of the family of nations was recognized and granted.

It was therefore the representatives of Canada sitting in Paris with representatives of Great Britain and the other nations there assembled, who negotiated and assented to terms of peace embodied in the Treaty of Versailles. Before the Treaty was ratified it was submitted to the Canadian Parliament for approval, and it was only ratified by His Majesty in respect of the Dominion of Canada after the Canadian Parliament had approved it and His Majesty's Canadian advisors had advised its ratification. Exactly the same procedure was followed by Canada in connection with the treaties agreed upon at the Washington Conference.

International recognition of the position of the Dominions was also given in the constitution of the League of Nations. The Dominions, as fully self-governing nations, were made original members of the League and the youngest of the Dominions, the Irish Free State, will no doubt be admitted to membership at the next Assembly, which convenes in Geneva in a few days.<sup>1</sup> The representatives of the Dominions in the Assembly, and these representatives alone, have the right to speak for the Dominions on all questions that come up for consideration between the members of the League. The status of the Dominions in the family of nations is now established, and three of the Dominions—The Union of South Africa, the Common-

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<sup>1</sup> The Irish Free State was admitted to membership in the League of Nations by unanimous vote of the Assembly on September 10th, 1923.



wealth of Australia, and the Dominion of New Zealand—have been given mandates over former German territories in Africa and the Southern Pacific and in respect of these mandates they report solely to the League of Nations.

The view of the British Government of the international status of the Dominions is clearly set forth in the statement made by the Prime Minister of Great Britain at the Conference of Prime Ministers held in London in June, 1921:

“In recognition of their services and achievements in the war the British Dominions have now been accepted fully into the comity of nations by the whole world. They are signatories to the Treaty of Versailles and of all other treaties of peace. They are members of the Assembly of the League of Nations, and their representatives have already attended meetings of the League. In other words, they have achieved full national status. . . .”

There are some in Canada and in the other parts of the Empire, and there may even be some in the United States, who have not yet become reconciled to this change or to distinctive Dominion representation in the Assembly of the League and other international gatherings. They cannot shake off the old conception of Colonial relationship and they still ask why the Dominions should be represented in the League of Nations and at International Conferences by their own representatives. There are at least two sufficient reasons: (1) Their status as fully self-governing nations entitles them to representation. The governments of the Dominions, and these governments alone,

have authority to speak for them. These are the only governments responsible to them and over which they exercise control. It is but the recognition of one of the elementary principles of democracy that a people should not be bound by obligations or agreements in the making of which their representatives have no voice. Further no other government exercises, or has the constitutional right to exercise authority over them. (2) By the terms of the Covenant any fully self-governing nation complying with the other conditions of admission is entitled to membership in the League of Nations. Canada and the other Dominions were made original members because they were fully self-governing. Ireland, under her new constitution, should now be admitted on the same basis. Under the Constitution of the League each member has one vote, and one vote only. Great Britain has only one vote, the same as the United States would have had had she ratified the Treaty of Versailles. Canada only has one vote, the same as Cuba, Haiti, Panama and other American states with which the United States is closely related. To refuse such representation to the Dominions would be to deny to them rights cheerfully accorded to other nations which do not possess such complete and unfettered control over their own affairs, such as Cuba and Haiti. Over these states your Government exercises the varying degrees of supervision and control outlined by Mr. Hughes in his address to this Association on the Monroe Doctrine.

There is also a notable difference in the methods

of conducting Foreign Affairs under the Constitutions of the American and Britannic Commonwealths.

Under your constitution, both the President and the Senate have a voice in determining your policy in foreign affairs. Your President, after long and protracted negotiations with representatives of other states may conclude and execute treaties with them and your Senate may upset the whole work by refusing to approve of the treaties, or may approve, with reservations, which substantially change their character. Other states may not like this feature of your constitution, but they must cheerfully accept the situation, for you in your wisdom have provided that two independent authorities, and not one, shall speak for the one government in foreign affairs.

In view of the status of the Dominions, it is no longer possible for the British Government, deriving its authority solely from the British people, to speak for the whole Britannic Commonwealth. Each self-governing Dominion is entitled to speak for itself on matters affecting its own interests, and a common or united policy can only be secured by conference and agreement between the self-governing members of the Commonwealth. It might facilitate the conduct of foreign affairs and be more convenient to other powers if only one government had the right to speak for all, but our Commonwealth Constitution does not so provide or permit.

If the Dominions choose to authorize the British Government or its representatives to act or speak for them in the negotiation of treaties or in the conduct of foreign affairs, that is a purely domestic matter

between the Governments concerned, and in such cases the British Government, or its representative, acts not because of any inherent jurisdiction but solely at the request and as the representative of the Dominion concerned. This position was well illustrated at the Washington Conference, where Canada was represented by Sir Robert Borden who acted for and signed the treaties concluded at this conference on behalf of Canada. But the Union of South Africa was represented by Mr. Balfour, the Chief British Delegate, who signed all the treaties twice, first as representing the British Empire other than the Dominions and India, and a second time as representing the Union of South Africa.

A recent and interesting development affecting the conduct of relations between our two countries was the decision to appoint a Canadian Minister to Washington, to deal with Canadian questions, a step taken in full agreement between the British and Canadian Governments. At the time this decision was made we were advised that your Government would cordially welcome a Canadian Minister at Washington, and we have no reason to assume that any change has taken place in the attitude of your Government in this regard. My regret is that our Government has not, so far, made the appointment. The Canadian Minister is to be appointed by His Majesty on the advice of His Canadian advisors. He would be a Minister Plenipotentiary of His Majesty, charged with Canadian affairs and His Majesty's present Ambassador at Washington would cease to be responsible for Canadian affairs.

The proposal to appoint a Canadian Minister to Washington does not arise out of any desire on the part of Canada to assert a change in her national status, but solely with a view to facilitate the transaction of the business arising between your Government and people, and ours. At the same time the appointment of such a Minister would be another evidence of our present constitutional position. Is the appointment of such a Minister desirable?

Providence has placed our two peoples side by side along an international boundary of over five thousand miles. The trade between the United States and Canada is substantially greater than the trade between the United States and all the countries of South and Central America combined. For the year ending June 30th, 1923, your trade with Canada alone exceeded your total trade with all the countries of Central and South America by over \$250,000,000. Your trade with us is greater than your trade with any other nation, save Great Britain, and before many years it undoubtedly will be greater with us than with Great Britain. Our country is somewhat larger in area than yours, and although not all equally habitable, it is bound to be the home of many millions of energetic and progressive people possessing largely the same ideals as yours, and our intercourse and trade with the people of the United States will inevitably greatly increase. Questions of great interest and importance are constantly arising between our two countries and the fair, speedy and amicable adjustment of these questions is of the greatest importance to both countries. I am firmly persuaded

that the appointment of such a Minister is in the interests both of Canada and of the United States, and of good relations between the two, and it is also in the interests of good relations between the British Empire and the United States.

Is it possible that an Empire or Commonwealth so loosely knit together, and with no central government possessing legislative and executive authority over the whole, can survive? The German Emperor thought it could not and that with the first shock of war it would dissolve, but the shock of war only bound the constituent nations more closely together, and from the very outbreak of the war until the closing engagement on the morning of the 11th of November, 1918, when Canadian troops recaptured Mons from the German forces, the nations of the Empire acted together as one for the attainment of the great objectives and ideals for which the British Empire and Allied Powers fought in the war. What it was possible to achieve under the stress and sacrifices of war, it should be possible to maintain in the days of peace.

One must admit, however, that it is the greatest and most difficult experiment in democratic government which the men of our race have ever attempted or the world has yet seen. It is attempting to do on an almost world-wide scale that which your Thirteen Colonies attempted and failed to do under the Articles of Confederation of 1777. There are, however, certain vital differences between your situation and ours, and we have the benefit of 150 years' additional experience in the science and actual work of government.



We will be able to appreciate better the magnitude and difficulty of the task if we recall that the Commonwealth contains about one-fourth of the entire human race, composed of men of almost all races, all religions, and all degrees of civilization, living on all the continents and in many of the Islands of the Seas. Throughout this entire area, and among these diverse peoples, law and order are maintained, justice is honestly and impartially administered, and war between its several states and races has been eliminated. It is itself a League of Nations maintaining justice and peace among one-fourth of the human race, and endeavouring to preserve the peace between that one-fourth and the other three-fourths. That in itself is an achievement in the realm of government by the men of your race and mine greater than that ever attained by the men of any other race. Who can measure the extent and value of this contribution to peace amidst almost world-wide unrest and disorder?

In this great experiment we know we may be assured of the interest, the sympathy, and I trust the generous co-operation of the members of your Association.

But whatever may be the differences in the form of your Constitution and ours, or in the powers and functions of the organs of government which each has established, in real spirit and outlook our two nations should be essentially one. We share the same historical background, and draw our inspiration from the same sources, in law, in literature and in political experience, and we stand together for justice, ordered liberty and peace.

It was my privilege on the morning of the 4th of July, 1918, to stand on a plateau to the north-east of Amiens, overlooking the salient which the Germans had driven into that vital and vulnerable point of the allied defence, and to see an Australian Division, an American Infantry Brigade, a Canadian Cavalry Brigade, and British Artillery, all under the command of a British General, attack the German forces to wipe out the salient and straighten the line. It was the first important attack after the serious reverses of the first half of the year 1918, and much anxiety was felt as to its outcome, but the united forces broke the German line, recaptured the salient and carried the Allied Front substantially beyond their fixed objective. One could not witness such a scene without being profoundly moved, and one could not but feel that this union of the forces of the mother country and daughter communities in a common cause, on the anniversary of the date of your Declaration of Independence, was both a testimony and a prophecy. A testimony that though we might adopt different forms of government and follow different flags, that in the great fight for human freedom and democracy, we were still, at heart, essentially one. It was a prophecy that in the great issues of the future, where liberty and democracy are at stake, we shall not selfishly count the cost, but we shall stand together as loyally and as faithfully as we did in the days of the war. It was this whole-hearted co-operation, whole-hearted and unselfish co-operation, of the Governments and peoples of the United States and the British Empire in assisting France and Belgium which



made possible the ultimate defeat and overthrow of the German military autocracy which had menaced the peace and security of the world.

May one be permitted to express the earnest hope that Canada, associated politically with Great Britain and geographically with the United States, the daughter of one and the sister of the other, may aid in interpreting the one to the other, and in promoting the most cordial relations and the most sympathetic co-operation between the two peoples in the cause of justice and peace. One cannot doubt that therein lies one of the great hopes for the establishment and maintenance of peace, justice and ordered liberty in the world.

